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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE LUIS LOPEZ-PEREZ, Petitioner, v. ALBERTO R. GONZALES, Attorney General, Respondent.	No. 03-72437 Agency No. A92-309-240 MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted October 21, 2005**
Pasadena, California

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Jose Luis Lopez-Perez petitions for review of the Board of Immigration Appeals' order which concluded that the application of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), Pub. L. No. 99-603, 100

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Stat. 3359, to Lopez-Perez was not impermissibly retroactive. The facts and prior proceedings are known to the parties, and are restated herein only as necessary.

I

The elements that made retroactive application of IIRIRA problematic in *INS v. St. Cyr*, 533 U.S. 289 (2001), are either lacking here or have already been discussed and dismissed by prior Ninth Circuit precedent. Lopez-Perez's attempt to distinguish his position from *Jimenez-Angeles v. Ashcroft*, 291 F.3d 594 (9th Cir. 2002), based on his application for amnesty through the Seasonal Agricultural Worker ("SAW") program, is unavailing. *Jimenez-Angeles* compels the conclusion that Lopez-Perez's actual loss–the ability to live undetected–is not a benefit commensurate with the loss of constitutional rights. 291 F.3d at 602.

Lopez-Perez had no settled expectation of a right to apply for suspension of deportation. It appears that Lopez-Perez only recently became aware of the suspension of deportation remedy, so he could not have had settled expectations that the remedy would apply to him. Even Lopez-Perez's more modest argument–that he believed his SAW application would not be used to his detriment–reflects the sort of speculative belief that cannot be the basis for settled expectations. *Jimenez-Angeles*, 291 F.3d at 602.

II

Lopez-Perez cannot establish that a *quid pro quo* benefitting the government existed. To do so he must show that a *formal* exchange existed, such as that seen in a plea bargain. *See INS v. St Cyr*, 533 U.S. 289 (2001); *see also Jimenez-Angeles*, 291 F.3d at 602 (noting that a plea bargain is a formal, consensual exchange). Indeed, *Vasquez-Zavala v. Ashcroft*, 324 F.3d 1105 (9th Cir. 2003), noted the "uniqueness" of St. Cyr's plea bargain *quid pro quo* situation. *Id.* at 1108 (citing *Uspango v. Ashcroft*, 289 F.3d 226 (3d Cir. 2002) (noting, similarly, the uniqueness of St. Cyr's plea bargain)); *see also Lopez-Urenda*, 345 F.3d 788, 795 (9th Cir. 2003) (concurring with *Vasquez-Zavala* that plea bargains present a unique situation). Lopez-Perez cannot satisfy this "unique" fact pattern requirement through interactions with the government as part of a long-standing, impersonal, and broad amnesty program.

Lopez-Perez cannot meaningfully distinguish his case from existing Ninth Circuit precedent and cannot demonstrate that the application of IIRIRA would have an impermissibly retroactive effect.

AFFIRMED.